

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

UNITED STATES OF AMERICA,

Plaintiff,

VS.

PATRICK E. HARRAHILL, JR.,

Defendant.

CASE NO. 8:10CR109

TENTATIVE FINDINGS

The Court has received the Presentence Investigation Report (“PSR”) and the Defendant’s objections thereto or, in the alternative, motion for a reduction or variance (Filing No. 71). The government adopted the PSR (Filing No. 73). See Order on Sentencing Schedule, ¶ 6. The Court advises the parties that these Tentative Findings are issued with the understanding that, pursuant to *United States v. Booker*, 543 U.S. 220 (2005), the sentencing guidelines are advisory.

The Defendant's plea agreement states that he agrees "not to seek or suggest a sentence reduction via variance or deviation from the Guidelines." (Filing No. 60, ¶ 7(c).) The Defendant objects to the application of U.S.S.G. § 4A1.1(e) in ¶ 69 or, alternatively, requests a reduction to offset the application of § 4A1.1(e). On November 1, 2010, the amendments to the guidelines take effect. One amendment deletes § 4A1.1(e). The objection or request for reduction will be addressed at sentencing.

IT IS ORDERED:

1. The Defendant's objection or request for reduction relating to ¶ 69 will be heard at sentencing;
2. If **any** party wishes to challenge these tentative findings, the party shall immediately file in the court file and serve upon opposing counsel and the Court a motion

challenging these tentative findings, supported by (a) such evidentiary materials as are required (giving due regard to the requirements of the local rules of practice respecting the submission of evidentiary materials), (b) a brief as to the law, and (c) if an evidentiary hearing is requested, a statement describing why an evidentiary hearing is necessary and an estimated length of time for the hearing;

3. Absent submission of the information required by paragraph 3 of this Order, my tentative findings may become final; and

4. Unless otherwise ordered, any motion challenging these tentative findings shall be resolved at sentencing.

DATED this 12th day of October, 2010.

BY THE COURT:

s/Laurie Smith Camp
United States District Judge